

**Peter J. Viteznik, OSB No. 944540**  
[pvitezni@kilmerlaw.com](mailto:pvitezni@kilmerlaw.com)  
**Robert B. Miller, OSB No. 960068**  
[bobmiller@kilmerlaw.com](mailto:bobmiller@kilmerlaw.com)  
KILMER, VOORHEES & LAURICK, P.C.  
732 N.W. 19th Avenue  
Portland, Oregon 97209-1302  
Telephone: (503) 224-0055  
Fax: (503) 222-5290

Attorneys for Defendants  
Terrence Thurber, Thomas Thurber,  
DG Rollins Mining, LLC and  
Columbia Gorge Data Center, LLC

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

RAYMOND BALL, an individual;  
and JOSEPH TOTH, an individual,  
Plaintiffs,  
vs.  
MATTHEW CARSON, an individual;  
WILLIAM CARSON, an individual;  
TERRANCE THURBER, an individual;  
THOMAS THURBER, an individual;  
DG ROLLINS MINING, LLC, a Wyoming  
limited liability company;  
COLUMBIA GORGE DATA CENTER, LLC,  
a Nevada limited liability company;  
WHC & SWC INVESTMENTS, LTD,  
a Texas limited partnership;  
INTELLIGENT INVESTMENTS, LLC,  
a Texas limited liability company; and  
SNICKERS #1, LLC,  
a Texas limited liability company,

Defendants.

Page 1 – DEFENDANTS TERRENCE THURBER, THOMAS THURBER,  
DG ROLLINS MINING, LLC, AND COLUMBIA GORGE DATA CENTER, LLC'S  
ANSWER TO PLAINTIFFS' COMPLAINT

Case No. 3:19-cv-00242-HZ

**DEFENDANTS TERRENCE THURBER,  
THOMAS THURBER, DG ROLLINS  
MINING, LLC, AND COLUMBIA  
GORGE DATA CENTER, LLC'S  
ANSWER TO PLAINTIFFS'  
COMPLAINT**

***Demand For Jury Trial***

KILMER VOORHEES & LAURICK, P.C.  
A PROFESSIONAL CORPORATION  
732 N.W. 19<sup>th</sup> AVENUE  
PORTLAND, OREGON 97209-1302  
(503) 224-0055 · FAX (503) 222-5290

Defendants Terrence Thurber, Thomas Thurber, DG Rollins Mining, LLC, and Columbia Gorge Data Center, LLC answer Plaintiffs' Complaint as follows:

1.

Defendants admit the allegations in paragraph 1 on information and belief.

2.

Defendants admit the allegations in paragraph 2 on information and belief.

3.

Defendants admit, on information and belief, that Miner Hosting, LLC was an entity that operated a data center in Colorado. Defendants deny the allegation that Miner Hosting relocated its assets and business operations to any center or facility owned or operated by these Defendants or at the request of these Defendants. Defendants deny the remaining allegations in paragraph 3, except as specifically admitted.

4.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 4 and, therefore, deny them.

5.

Defendants Thomas Thurber and Terrence Thurber admit that William Carson and Matthew Carson represented that William Carson is Matthew Carson's father, and was a resident of Texas. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 5 and deny them, except as specifically admitted.

6.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 6 and, therefore, deny them.

7.

Defendants admit Thomas Thurber and Terrence Thurber are father and son, and admit that at one time they were Oregon residents. Defendants deny the remaining allegations in paragraph 7, except as specifically admitted.

8.

Defendants admit the allegations in paragraph 8.

9.

Defendants admit the allegations in paragraph 9.

10.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 10 and, therefore, deny them.

11.

Defendants admit the allegations in paragraph 11 for the purpose of this Court's jurisdiction.

12.

Defendants admit the allegations in paragraph 12 for the purpose of this Court's venue.

13.

While the Defendants admit the general characterizations in paragraph 13, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 13 and, therefore, deny them.

14.

Defendants knew that an entity operating under the name Miner Source represented that they made money through activities described in subparagraphs a, b, and c, but lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 14 and, therefore, deny them.

15.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 15 and, therefore, deny them.

16.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 16 and, therefore, deny them.

17.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 17 and, therefore, deny them.

18.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 18 and, therefore, deny them.

19.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 19 and, therefore, deny them.

20.

Defendants admit that in December 2013 Terrence Thurber used an entity named Direct Investments, S.C., to purchase miners and paid Miner Hosting to host them. Defendants admit that the Thurbers and Carsons had a business relationship where Miner Hosting hosted miners purchased by Direct Investments, S.C. Defendants deny the remaining allegations in paragraph 20, except as specifically admitted.

21.

Defendants admit that in and after December 2013 the Thurbers considered building a data center, and in approximately April 2014 had identified The Dalles, Oregon, as a site. Defendants deny the remaining allegations in paragraph 21, except as specifically admitted.

22.

Defendants admit that they intended to build and complete a data center in The Dalles, Oregon, in 2014. Defendants admit that Terrence Thurber was DG Rollins's only owner and Thomas Thurber, its CFO, ran the day-to-day operations. Defendants deny the remaining allegations in paragraph 22, except as specifically admitted.

23.

In response to the allegations in paragraph 23, Defendants admit, on information and belief, that this information was in the public domain, but Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 23 and, therefore, deny them.

24.

In response to the allegations in paragraph 24, Defendants admit that they were aware that Miner Hosting publicly represented that they had sold equipment, but Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 24 and, therefore, deny them.

25.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 25 and, therefore, deny them.

26.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 26 and, therefore, deny them.

27.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 27 and, therefore, deny them.

28.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 28 and, therefore, deny them.

29.

In response to the allegations in paragraph 29, Defendants developed an impression at some point in time that Matthew Carson was running Miner Hosting. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 29 and, therefore, deny them.

30.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 30 and, therefore, deny them.

31.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 31 and, therefore, deny them.

32.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 32 and, therefore, deny them.

33.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 33 and, therefore, deny them.

34.

In response to the allegations in paragraph 34, Defendants admit that there was an agreement to sell a membership interest in DG Rollins to Matthew Carson or an entity Matthew Carson controlled for \$150,000. Defendants admit that DG Rollins offered to hire Matthew Carson and Thomas Salvatore. Defendants deny the remaining allegations in paragraph 34, except as specifically admitted.

35.

Defendants deny the allegations in paragraph 35.

36.

In response to the allegations in paragraph 36, Defendants admit that an entity identified as Snickers #1 was owned by William Carson, Matthew Carson, and William's wife, Susan, and that Snickers #1 purchased a membership interest in DG Rollins for \$150,000 on February 19, 2015. Defendants deny the remaining allegations in paragraph 36, except as specifically admitted.

37.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 37 and, therefore, deny them.

38.

In response to the allegations in paragraph 38, Defendants admit that Carson and/or Salvatore moved equipment into the data center in The Dalles, and admit that DG Rollins paid some money as a relocation allowance for Carson and Salvatore. Defendants deny that they participated in the relocation as alleged in paragraph 38, and deny that they requested or permitted Miner Hosting to store equipment in the data center in The Dalles as alleged in paragraph 38. Defendants deny the remaining allegations in paragraph 38, except as specifically admitted.

39.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 39 and, therefore, deny them.

40.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 40 and, therefore, deny them.

41.

In response to the allegations in paragraph 41, Defendants admit that Plaintiffs filed a lawsuit against Miner Hosting and DG Rollins in 2016, and admit that DG Rollins appeared and denied that it was a successor-in-interest to Miner Hosting. Defendants admit on information and belief that Miner Hosting defaulted, but lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 41 and, therefore, deny them.

42.

In response to the allegations in paragraph 42, Defendants admit that Mr. Thurber admitted in discovery to hiring Carson and Salvatore. Defendants deny that any of the Defendants were involved in an merger as alleged in the Complaint. Defendants deny the remaining allegations in paragraph 42, except as specifically admitted.

43.

In response to the allegations in paragraph 43, Defendants admit that Plaintiffs dismissed DG Rollins without prejudice. Defendants admit, on information and belief, that Plaintiffs obtained a judgment against Miner Hosting in the amount of \$263,504.62, but lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 43 and, therefore, deny them.

44.

Defendants deny the allegations in paragraph 44.

45.

In response to the allegations in paragraph 45, Defendants admit that Plaintiffs have filed this lawsuit. Defendants deny the remaining allegations in paragraph 45, except as specifically admitted.

46.

Defendants deny the allegations in paragraph 46.

47.

Defendants incorporate all prior responses as if fully set forth below.

48.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 48 and, therefore, deny them.

49.

Defendants deny the allegations in paragraph 49.

50.

In response to the allegations in paragraph 50, Defendants deny that there was a merger or transfer. Defendants deny the remaining allegations in paragraph 50.

51.

In response to the allegations in paragraph 51, Defendants deny any responsibility or liability to the Plaintiffs. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 51 and, therefore, deny them.

52.

In response to the allegations in paragraph 52, Defendants admit that DG Rollins and Columbia Gorge have the same employees and owners, and that they operate or have operated a data center in The Dalles, Oregon. Defendants deny the remaining allegations in paragraph 52, except as specifically admitted.

53.

Defendants incorporate all prior responses as if fully set forth below.

54.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 54 and, therefore, deny them.

55.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 55 and, therefore, deny them.

56.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 56 and, therefore, deny them.

57.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 57 and, therefore, deny them.

58.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 58 and, therefore, deny them.

59.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 59 and, therefore, deny them.

60.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 60 and, therefore, deny them.

61.

Defendants incorporate all prior responses as if fully set forth below.

62.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 62 and, therefore, deny them.

63.

In response to the allegations in paragraph 63, Defendants deny that they or any of them were involved in a merger with Miner Hosting and deny that they or any of them were involved in a transfer of things owned by or belonging to Miner Hosting. Defendants admit that DG Rollins hired Carson and Salvatore. Defendants deny the remaining allegations in paragraph 63, except as specifically admitted.

64.

Defendants deny the allegations in paragraph 64.

65.

In response to the allegations in paragraph 65, Defendants deny that they or any of them were involved in a merger or transfer of Miner Hosting or anything held by or belonging to Miner Hosting. Defendants deny the remaining allegations in paragraph 65.

66.

In response to the allegations in paragraph 66, Defendants deny that they or any of them were involved in a merger or related transfer with Miner Hosting. Defendants deny the remaining allegations in paragraph 66.

67.

In response to the allegations in paragraph 67, Defendants incorporate and reallege their responses to paragraphs 65 and 66, and state further that they lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 67 and, therefore, deny them.

68.

In response to the allegations in paragraph 68, Defendants incorporate and reallege their response to paragraph 52.

69.

Defendants incorporate all prior responses as if fully set forth below.

70.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 70 and, therefore, deny them.

71.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 71 and, therefore, deny them.

72.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 72 and, therefore, deny them.

73.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 73 and, therefore, deny them.

74.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 74 and, therefore, deny them.

75.

Defendants incorporate all prior responses as if fully set forth below.

76.

Defendants deny the allegations in paragraph 76.

77.

Defendants deny the allegations in paragraph 77.

78.

Defendants deny the allegations in paragraph 78.

79.

Defendants deny the allegations in paragraph 79.

80.

Defendants deny the allegations in paragraph 80.

81.

Defendants deny the allegations in paragraph 81.

82.

Defendants incorporate all prior responses as if fully set forth below.

83.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 83 and, therefore, deny them.

84.

Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 84 and, therefore, deny them.

85.

Defendants deny the allegations in paragraph 85.

86.

Defendants deny the allegations in paragraph 86.

87.

Defendants deny the allegations in paragraph 87.

88.

Defendants deny the allegations in paragraph 88.

89.

In response to the allegations in paragraph 89, Defendants incorporate and reallege their response to paragraph 52.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

90.

The allegations in Plaintiffs' Complaint fail to state claim for declaratory judgment, fraudulent transfer, piercing the corporate veil, deceit by misrepresentation, or civil conspiracy against any of these Defendants.

**SECOND AFFIRMATIVE DEFENSE**

**(*Res judicata*)**

91.

The claims alleged these Defendants had been litigated in another jurisdiction under circumstances that bar further litigation under the doctrine of *res judicata*.

**THIRD AFFIRMATIVE DEFENSE**

**(*Payment*)**

92.

The claims alleged against these Defendants are barred by, or to the extent of, payment received by the Plaintiffs.

**PRAYER**

WHEREFORE, having fully answered Plaintiffs' Complaint, Defendants Terrence Thurber, Thomas Thurber, DG Rollins Mining, LLC, and Columbia Gorge Data Center, LLC pray for judgment against Plaintiffs as follows:

1. That Plaintiffs' Complaint be dismissed with prejudice and that Plaintiffs take nothing thereby;

2. For their attorney fees, costs, and disbursements incurred herein; and
3. For such other and further relief as the Court shall deem just and proper.

DATED this 19<sup>th</sup> day of July, 2019.

KILMER VOORHEES & LAURICK, P.C.

*Peter J. Viteznik*

---

Peter J. Viteznik, OSB No. 944540

[pvitezni@kilmerlaw.com](mailto:pvitezni@kilmerlaw.com)

Robert B. Miller, OSB No. 960068

[bobmiller@kilmerlaw.com](mailto:bobmiller@kilmerlaw.com)

Attorneys for Defendants Terrence Thurber,  
Thomas Thurber, DG Rollins Mining, LLC  
and Columbia Gorge Data Center, LLC

I:\10546\0003\Pleadings - USDC Oregon\Answer 2019-0719.docx